



January 27, 2009

## HOUSE BILL No. 1374

DIGEST OF HB 1374 (Updated January 21, 2009 3:15 pm - DI 101)

**Citations Affected:** IC 27-7.

**Synopsis:** Escrow transactions. Provides that funds received in connection with an escrow transaction in a real estate transaction must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement. Prohibits a closing agent from making disbursements from an escrow account in connection with a real estate transaction unless any funds that: (1) are received from a single party to the transaction; and (2) in the aggregate are at least \$10,000; are wired funds that are unconditionally held by and irrevocably credited to the closing agent's escrow account. Sets forth certain types of instruments and other forms of money that constitute "good funds" for purposes of an escrow transaction. Prohibits a closing agent from making disbursements from an escrow account in connection with a real estate transaction unless any funds that: (1) are received from a single party to the transaction; and (2) in the aggregate are less than \$10,000; are good funds. Provides that if: (1) the closing agent in a real estate transaction receives wired funds unconditionally held and irrevocably credited to the closing agent's escrow account; and (2) a holder of a mortgage lien so requests; the lien holder is entitled to receive its proceeds from the real estate transaction through funds electronically transferred to an account specified by the holder. Provides that a closing agent may advance up to \$500 from an escrow account on behalf of a party to an escrow transaction for the purpose of paying certain incidental fees in connection with the real property that is the subject of the escrow transaction.

**Effective:** July 1, 2009.

**Murphy, Bardon**

January 13, 2009, read first time and referred to Committee on Financial Institutions.  
January 26, 2009, amended, reported — Do Pass.

HB 1374—LS 7528/DI 101+



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January 27, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1374

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A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-7-3.7 IS ADDED TO THE INDIANA CODE  
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]:

4 **Chapter 3.7. Escrow Transactions in Real Estate Transactions**

5 **Sec. 1. As used in this chapter, "closing agent" means a person**  
6 **that closes an escrow transaction in connection with the purchase,**  
7 **sale, or financing of an interest in real estate.**

8 **Sec. 2. As used in this chapter, "escrow account" means a**  
9 **checking account established by a closing agent with a federally**  
10 **insured:**

11 (1) bank;

12 (2) savings and loan association;

13 (3) credit union; or

14 (4) savings bank chartered under the laws of a state or the  
15 United States;

16 **that is used exclusively for the deposit and disbursement of funds**  
17 **for an escrow transaction.**

HB 1374—LS 7528/DI 101+



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1        **Sec. 3. As used in this chapter, "escrow transaction" means a**  
 2        **transaction in which a person deposits with a closing agent funds**  
 3        **that are to be held until:**

- 4            (1) a specified event occurs; or  
 5            (2) the performance of a prescribed condition;  
 6        **in connection with the purchase, sale, or financing of an interest in**  
 7        **real estate.**

8        **Sec. 4. As used in this chapter, "good funds" means funds in any**  
 9        **of the following forms:**

- 10           (1) United States currency.  
 11           (2) Wired funds unconditionally held by and irrevocably  
 12           credited to the escrow account of the closing agent.  
 13           (3) Certified or cashier's checks that are drawn on an existing  
 14           account at a federally insured:  
 15                (A) bank;  
 16                (B) savings and loan association;  
 17                (C) credit union; or  
 18                (D) savings bank chartered under the laws of a state or the  
 19           United States.  
 20           (4) A check drawn on the trust account of a real estate broker  
 21           licensed under IC 25-34.1, if the closing agent has reasonable  
 22           and prudent grounds to believe that sufficient funds will be  
 23           available for withdrawal from the account on which the check  
 24           is drawn at the time of disbursement of funds from the closing  
 25           agent's escrow account.  
 26           (5) A personal check not to exceed five hundred dollars (\$500)  
 27           per closing.  
 28           (6) A check issued by the state, the United States, or a political  
 29           subdivision of the state or the United States.  
 30           (7) A check drawn on the escrow account of another closing  
 31           agent, if the closing agent in the escrow transaction has  
 32           reasonable and prudent grounds to believe that sufficient  
 33           funds will be available for withdrawal from the account upon  
 34           which the check is drawn at the time of disbursement of funds  
 35           from the escrow account of the closing agent in the escrow  
 36           transaction.

37        **Sec. 5. As used in this section, "real estate transaction" refers to**  
 38        **any:**

- 39           (1) escrow transaction;  
 40           (2) settlement; or  
 41           (3) closing;  
 42        **conducted in connection with the purchase, sale, or financing of an**

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1 interest in real estate.

2 **Sec. 6. Funds received in connection with an escrow transaction**  
 3 **must be deposited in an escrow account unless the parties to the**  
 4 **escrow transaction agree in writing to another arrangement.**

5 **Sec. 7. A closing agent may not make disbursements from an**  
 6 **escrow account in connection with a real estate transaction unless**  
 7 **any funds that:**

8 (1) are received from any single party to the real estate  
 9 transaction; and

10 (2) in the aggregate are at least ten thousand dollars  
 11 (\$10,000);

12 are wired funds that are unconditionally held by and irrevocably  
 13 credited to the escrow account of the closing agent.

14 **Sec. 8. A closing agent may not make disbursements from an**  
 15 **escrow account in connection with a real estate transaction unless**  
 16 **any funds that:**

17 (1) are received from any single party to the real estate  
 18 transaction; and

19 (2) in the aggregate are less than ten thousand dollars  
 20 (\$10,000);

21 are good funds.

22 **Sec. 9. If:**

23 (1) the closing agent in a real estate transaction receives wired  
 24 funds unconditionally held and irrevocably credited to the  
 25 escrow account of the closing agent; and

26 (2) a holder of a mortgage lien encumbering real estate so  
 27 requests, as part of written closing instructions or a written  
 28 payoff statement in advance of closing;

29 the holder of the mortgage lien is entitled to receive its proceeds  
 30 from the real estate transaction through funds electronically  
 31 transferred to an account specified by the holder of the mortgage  
 32 lien.

33 **Sec. 10. A closing agent may advance an amount not to exceed**  
 34 **five hundred dollars (\$500) from an escrow account on behalf of a**  
 35 **party to an escrow transaction for the purpose of paying incidental**  
 36 **fees, including conveyance and recording fees. Incidental fees may**  
 37 **be paid in order to:**

38 (1) effect and close the sale of;

39 (2) purchase;

40 (3) exchange;

41 (4) transfer;

42 (5) encumber; or

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- 1           **(6) lease;**
- 2           **real property that is the subject of the escrow transaction.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1374, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 6, delete "or accounts".

Page 3, line 15, delete "or accounts".

and when so amended that said bill do pass.

(Reference is to HB 1374 as introduced.)

BARDON, Chair

Committee Vote: yeas 7, nays 0.

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